

CHAPTER 11

SECTION 10.2

APPEAL AND HEARING PROCESS FOR INPATIENT MENTAL HEALTH AND PARTIAL HOSPITALIZATION PROGRAMS

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I. BACKGROUND

The appeals procedure applicable to admissions under the TRICARE/CHAMPUS Peer Review Organization (PRO) program now applies to inpatient mental health services and partial hospitalization programs. These procedures, very closely modeled after Medicare procedures, have been demonstrated to be fair and reasonable for beneficiaries and providers. Under these procedures, if a provider or beneficiary is not satisfied with an initial determination by the mental health review contractor, the provider or beneficiary may obtain a reconsideration which is provided by the same contracting organization, but by completely different reviewers. Thus, it is an independent, second determination. If still dissatisfied, a beneficiary may appeal to TMA. But, as under Medicare's rules, a reconsidered determination regarding medical necessity is final for providers.

II. POLICY

A. Reconsideration. The reconsideration is the first tier in the appeal process for denials of inpatient mental health services and partial hospitalization programs and is a contractor review designed to determine whether the initial determination was made in accordance with law, regulation, policies and guidelines in effect at the time the care was provided or requested. Waiver of liability determinations will be considered as part of the reconsideration process by the mental health review contractor.

B. Mental Health Review Contractor Reconsideration decision equivalent to Formal Review. A reconsideration determination shall be considered as the procedural equivalent of a formal review determination. A reconsideration determination regarding issues of medical necessity of inpatient mental health and partial hospitalization program services is final for providers.

C. Hearing. The hearing is the final tier in the appeal process and is a nonadversary, administrative proceeding to determine if the provider knew or could reasonably have been expected to know that the inpatient mental health and partial hospitalization services were excludable. In a case where preadmission authorization was available but not requested, or concurrent review requirements were not followed, the provider will be found to have known or been reasonably expected to have known that services were excludable (see Waiver of Liability provisions, [Chapter 13, Section 16.1](#)). A beneficiary is only entitled to a hearing if determined financially liable for the services because of agreeing in writing to pay for the

services after having been notified that the charges would probably be denied. The hearing determination regarding issues of medical necessity of mental health services is final for beneficiaries.

III. EXCEPTIONS

One additional step will be added in cases in which the peer review entity also has overall responsibility for managing the delivery of mental health care services. This is the case in connection with the CHAMPUS Reform Initiative in California and Hawaii, the Contract Provider Agreement program in the Tidewater area of Virginia and the New Orleans Coordinated Care program. Because these contractors are financially responsible for these services, there are potential incentives for them to be strict in utilization decisions, even though only qualified professional personnel make the decisions. To assure confidence in the process, a second reconsideration will be provided in connection with mental health services in places covered by contracts involving those potential incentives. The second reconsideration will be by the TRICARE/CHAMPUS national mental health contractor, a completely independent contractor, which will apply its own standards. Thus, the reconsideration and appeal procedures will assure a fair process for all parties.

IV. EFFECTIVE DATE

- A. November 18, 1991 for inpatient mental health care.
- B. September 29, 1993 for partial hospitalization programs.

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